



Advocating for women's rights  
and opportunities in Connecticut

Judiciary Committee

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Connecticut Women's Education and Legal Fund

H.B. 5524, *An Act Concerning the Recommendations of the Law Revision Commission with Respect to the Alimony Statutes*

S.B. 494, *An Act Concerning Guardians Ad Litem and Attorneys for Minor Children in Family Relations Matters*

H.B. 5593, *An Act Concerning Domestic Violence and Sexual Assault*

The Connecticut Women's Education and Legal Fund (CWEALF) is a statewide non-profit organization dedicated to empowering women, girls, and their families to achieve equal opportunities in their personal and professional lives. For 40 years, CWEALF has provided information, referral and support to women seeking guidance about questions involving divorce, child support, alimony, and custody. We have spoken to thousands of women. The majority of calls to our office are from individuals who earn \$25,000 or less annually, most with at least one dependent child.

**HB 5524, *An Act Concerning the Recommendations of the Law Revision Commission with Respect to the Alimony Statutes***

Having attended all of the meetings of the Alimony Committee of the Law Revision Commission, I would like to commend the members on approaching their task in a fair and respectful manner. They studied the issues in great detail with a desire to do what is right for parties and the judicial system as a whole.

#### Alimony overview

While many of us have heard anecdotes about individual experiences in the family court, there has been little to no data showing the current status of alimony in Connecticut. To this end, CWEALF conducted a recent study reviewing a scientific sample of 433 divorces in 2012 in two judicial districts containing a range of incomes. First, we learned that alimony is rare in Connecticut. Only 19% of all divorce cases contained an order of non-token alimony.<sup>1</sup> Alimony

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<sup>1</sup> "Token alimony" is \$1/year and signifies that the party awarded alimony is eligible to petition the court for a modification in alimony.

orders in Connecticut are also relatively low in amount. Of those receiving more than token alimony, 76% received less than \$300/week in alimony.<sup>2</sup>

We also know that very few alimony orders had an indefinite term – only 14% of all divorce cases. Of the 66 cases in which alimony was awarded for a set time period, alimony in 49 cases was for a term of between 1 and 8 years, while only 11 cases were 8-10 years. In addition, only six cases, or 1% of all 433 divorces studied were granted alimony for a period longer than 10 years. These statistics show that the vast majority of alimony orders are shorter-term in duration.

The amount of alimony tends to reflect the income differential of the spouses, and increases as the disparity increases. For example, alimony orders of less than \$100/week had a \$39.24 income differential; alimony of \$100-199/week had a \$491.52 income differential; alimony of \$200-299/week had a \$514.75 income differential; and alimony of \$400-\$499 had a \$1565 income differential.<sup>3</sup> Divorces involving an alimony award had a much larger income and asset disparity than divorces in which no alimony was awarded. Female alimony recipients had an average income of \$1,262/week less than men ordered to pay alimony, and assets of over \$1 million less than the men. In cases where no alimony was ordered, the income differential between parties was \$32/week and the asset differential was \$18,357 on average.

### Guidelines

The Alimony Committee discussed the idea of implementing guidelines for the calculation of alimony and ultimately dismissed it after lengthy discussion. CWEALF supports this decision. Making the length of a marriage and the parties' relative income largely determinative of the alimony amount and term would ignore other very important considerations. In marriages, women are often the main caregivers for children, thereby decreasing career opportunities and losing out on asset accumulation and lifetime earning potential. It is imperative that the judge consider more than straight finances, but also consider a spouse's significant contribution to maintaining a household, raising children, and supporting the other spouse in increasing his lifetime earning capacity.

The Alimony Committee acknowledged that guidelines would make judges hesitant to disregard the numerical formula, as it would be considered a "deviation." Regardless of the equitable factors found in C.G.S. §46b-82, any order that does not conform to the formula will be ripe for appeal, questioning the reasons for the deviation.

Finally, we have not witnessed a proposal for guidelines containing a mathematical or scientific basis for using a particular calculation. Formulas that focus on income and length of marriage fail to provide any justification for excluding the other 13 factors from the calculation. Without any reasoned justification for eliminating or reducing the value of the other 13 factors, CWEALF opposes a formula or guideline that would do so.

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<sup>2</sup> The average income of men paying alimony was \$947/week for female plaintiffs and \$1247/week for female defendants.

<sup>3</sup> Data is for male plaintiffs and female defendants.

### Other Recommendations of the Alimony Committee

The Alimony Committee proposed new provisions regarding modification of alimony following retirement. The burden would shift between payor and recipient, depending on whether or not the payor has attained the age of 65. This provision appears fair in 2014. However, to avoid changing the law periodically, it may be prudent to tie this age to the Social Security Administration standard, as the retirement age for people born in the year 1960 and later will be 67.

Another proposal governs modifications of alimony following cohabitation described as a “marriage-like relationship over a period of six months or more.” If this kind of relationship exists and the payor proves it, it would place the burden on the alimony recipient to show that the alimony should *not* be modified or terminated. This language is problematic because it does not define what a “marriage-like relationship” is. In addition, it assumes that a live-in relationship provides sufficient support to the recipient, when in fact, it could have worsened the recipient’s financial situation. Connecticut law already provides judges sufficient discretion to consider whether to modify or suspend the payment of alimony.<sup>4</sup> Proposals to automatically reduce or terminate alimony based on cohabitation assume incorrectly that a live-in relationship always provides sufficient financial support to the recipient.

### ***SB 494, An Act Concerning Guardians Ad Litem and Attorneys for Minor Children in Family Relations Matters***

When the Task Force to Study Legal Disputes Involving the Custody and Care of Children convened over the last several months, it reviewed and analyzed numerous recommendations regarding child custody. One item of consideration was whether Connecticut should enact a presumption of shared custody between both parents. Following a public hearing, the task force ultimately rejected that idea, which was the right thing to do. Current law already allows for an order of equal physical custody when that is in the best interests of the child. The court currently weighs a number of factors in custody decisions and a presumption of shared custody would place an unfair burden on the parties to prove otherwise; parties who are often unrepresented in court. This burden shifting would be particularly inappropriate in situations involving low-income individuals, criminal offenders, or domestic violence, where abusers often place their victims in a lesser position of power. Therefore, we strongly suggest that you uphold the task force’s rejection of that proposal.

This bill also adds several provisions to the guardian ad litem (GAL) process that would increase the transparency and fairness for parties. These proposals include an enhanced selection process, procedures for requesting removal of a GAL, the creation of a judicial publication to explain the roles and responsibilities of GALs and attorneys for minor children (AMC), the possible use of a sliding-scale fee schedule, and a prohibition on ordering GAL fees paid from a child’s college savings account.

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<sup>4</sup> See C.G.S. §46b-86.

This bill would require the court to issue a second order outlining for parents the nature of the work to be done, a deadline for a status report from the GAL, a fee schedule, and a schedule for periodic review of the GAL's work. This is particularly helpful for *pro se* parties who are unfamiliar with the court system, many of whom contact us for information about the process. CWEALF's recent study of marriage dissolutions in New Haven and Bridgeport shows that 48% of parties are unrepresented in divorce. An outright statement of the nature of the work to be done by the GAL would especially assist these parties in navigating the process.

We also support the proposal to use a sliding scale fee schedule for payment of GAL or AMC fees. Our Family Law Study also revealed that average incomes for individuals in divorce are \$40,196 for men and \$28,860 for women. These are generally not wealthy people. A sliding payment scale would take into account the dramatically differing incomes of parties who come before the court.

With respect to the selection process for GALs, the Committee may wish to consider requiring the court to provide a list of qualifications or degrees (e.g. attorney or psychologist) for each of the five potential GAL names provided to parents, and system for rotating the distribution of names from the comprehensive list of certified GALs. It may also be helpful to consider a system that would ensure that less experienced GALs have access to appropriate training and development opportunities.

### **H.B. 5593, *An Act Concerning Domestic Violence and Sexual Assault***

CWEALF also supports raised bill H.B. No. 5593, *An Act Concerning Domestic Violence and Sexual Assault* to better serve those affected by domestic violence and sexual assault. We support the proposed addition of teen dating violence to safe school climate statutes (Sec. 13-19; 20), the expansion of civil restraining orders and the penalties of violating an order (Sec. 21-22), and implementing a pilot program for Civil Court family violence victim advocates (Sec. 32).

CWEALF is currently a member of the Connecticut Safe School Coalition, a statewide collaboration of state and private partners that support a positive and respectful learning environment for all students. We emphasize challenging behaviors that are detrimental to the physical, emotional, and intellectual development of children and adolescents.

#### Teen Dating Violence

To achieve a climate in which all students can learn to be productive citizens and workforce participants, the amendment of teen dating violence must be incorporated into safe school climate plans. The current policy falls short in supporting the needs of all students and the reality of teen dating violence. According to the 2011 Connecticut School Health Survey Youth Behavior Component Report, almost 17% of students reported emotional abuse and 8% were physically abused.<sup>5</sup> Research has shown that students who are involved in an unhealthy relationship are more likely to do poorly in school, and report binge drinking, suicide attempts, and physical fighting.<sup>6</sup> Further, teens who are victims in dating violence relationships are more

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<sup>5</sup> Connecticut School Health Survey Youth Behavior Component Report (2011). Retrieved from [http://www.ct.gov/dph/lib/dph/hisr/pdf/YBC\\_2011\\_Report\\_ForWeb.pdf](http://www.ct.gov/dph/lib/dph/hisr/pdf/YBC_2011_Report_ForWeb.pdf)

<sup>6</sup> [http://www.cdc.gov/violenceprevention/intimatepartnerviolence/teen\\_dating\\_violence.html](http://www.cdc.gov/violenceprevention/intimatepartnerviolence/teen_dating_violence.html)

likely to experience mental health illnesses such as depression and anxiety, engage in unhealthy behaviors, and have suicidal ideation. Victims may also carry the patterns of violence into future relationships.<sup>7 8</sup> Given the repercussions to the lives of adolescents in the present and future and the need to secure a more respectful and safe school climate, teen dating violence should be added to the bullying statutes.

### Civil Restraining Orders

CWEALF also supports Sections 21 and 22, which would broaden the category of individuals able to apply for civil restraining orders. This expansion would address the gap among victims who are sexually abused, sexually assaulted, or stalked by someone with whom they do not have a family, household, or dating relationship. Civil restraining orders obtained for victims of domestic violence or sexual assault are currently an important legal recourse for victims of intimate partner violence who are separating from their abusers. The same protection is needed for victims who may know the offender, but do not have a family or dating relationship with that person. The purpose of such orders--the victims' safety and preventing harassment--reflects the unfortunate reality that the measure is necessary to offer safety and security.<sup>9</sup>

### Family Violence Victim Advocates

Finally, CWEALF supports Section 32, which would establish a pilot program for family violence victim advocates (FVVAs) in civil courts. Presently, only two domestic violence organizations in the state have the funding to have full-time FVVAs in family courts. Given the approximation that more than half of parties in family courts are pro se, and the state processes 8,900 applications a year, a great need is evident. Civil FVVAs would serve multiple purposes, such as providing families with a designated support in filling out applications, meeting the appropriate definitions of the order, and securing a State Marshal to serve the order. Having a point person is critical to ease the legal burden of completing this order individually or without the proper support. This legislation would be able to fill the gap by having advocates in the civil courts, assisting with safety planning and filling out restraining order applications.

In sum, HB 5593 would expand the protections for those who experience sexual assault, stalking, and domestic violence. We support these important proposals to integrate teen dating violence awareness and support in schools, extend civil restraining orders for abuse and stalking to acquaintance and stranger perpetrators, and increase support for victims through an advocate pilot program.

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<sup>7</sup> Foshee VA, McNaughton Reyes HL, Gottfredson NC, Chang LY, & Ennett ST. (2013). A longitudinal examination of psychological, behavioral, academic, and relationship consequences of dating abuse victimization among a primarily rural sample of adolescents. *Journal of Adolescent Health*, 53, 723-729.

<sup>8</sup> Exner-Cortens D, Eckenrode J, Rothman E. Longitudinal associations between teen dating violence victimization and adverse health outcomes. *Pediatrics* 2013; 71:71-78

<sup>9</sup> Vitti, K. A. & Sorenson, S.B. (2008). Restraining orders among victims of intimate partner homicide. *Injury Prevention*, 14, 191-195 doi:10.1136/ip.2007.017947

